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EXAMINER

CAPUTO, LISA M

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 07/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/003,147

Applicant(s)

NEEDHAM, BRADFORD H.

Examiner

Lisa M Caputo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: Reference number 312 is on Figure 3 and reference number 412 is on Figure 4, but these reference numbers do not appear in the specification.

A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The abstract of the disclosure is objected to because there are incomplete sentences (i.e. the sentences are grammatically incorrect). Correction is required. See MPEP § 608.01(b).

3. The disclosure is objected to because of the following informalities:

Regarding page 6, paragraph 19, line 2: Replace "and event" with --an event--.

Appropriate correction is required.

4. The use of the trademark Bluetooth has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

***Claim Objections***

5. Claim 16 is objected to because of the following informalities:

Please place a period at the end of claim 16 so that the statement is grammatically correct.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2, 5-13, 16-19, 26-28, 31-34, 37-42, and 45-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Assisi (U.S. Patent No. 5,696,488).

Assisi teaches a device for storage and retrieval of personal information having all of the elements and means as recited in claims 1-2, 5-13, 16-19, 26-28, 31-34, 37-42, and 45-50 of the instant application.

Assisi discloses that by virtue of the fact that a cemetery contains an electronic storage device with the personal information, or is connected to such a storage device, and in that there is provided a transmitter/receiver device in the cemetery, connected to said storage device, via which information stored in the storage device may be called up, any person with suitable recording apparatus can gain access to the storage device and may call up therefrom desired information for display or direct processing. Due to the electronic storage of the information in digital form, this information is protected from

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loss for a long period (basically for any length of time). The information may be entered by means of known measures into the storage device during the lifetime of the deceased person. Therefore the person himself or herself can determine which information shall form his/her intellectual estate. This information may be in the form of text, image or audio data in any combination. Input of the data may be undertaken at a suitable place, the storage device itself likewise being capable of being located at this place or already at its final place of storage. If necessary, the information may be initially stored intermediately in a mobile recording medium (as recited in claims 16-19 and 31-34 of the instant application). The storage device advantageously has a data bank structure, so that a search for specific information may be simply carried out. Communication with the storage device is appropriately carried out via a portable communications apparatus, which is brought into the vicinity of the transmitter/receiver device and communicates therewith in a "wireless" manner by means of electromagnetic waves. The communications device includes a recording medium for intermediate storage of the information called up from the storage device. This information may, for example, be displayed and/or printed out, or made audible as sound at home by means of appropriate devices. A computer is preferably provided for control of communication between the communications device and the transmitter/receive device or the storage device. This enables communication in dialogue form, the type of dialogue being determined by the person using the communications apparatus by posing corresponding questions, or by means of the program stored in the computer. This program may also include restrictions relating to

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access to the storage devices, for example, with respect to the circle of users or the time of release of all or specific pieces of information.

The invention will be explained in more detail in the following with reference to an embodiment given by way of example and illustrated in the FIGURE. This shows diagrammatically a device for storage and retrieval of personal information relating to and/or from a deceased person. A gravestone 1 erected on the grave of the deceased person carries a transmitter/receiver device 2, which can communicate with a small communications apparatus 3 unobtrusively carried by a visitor to the grave. The transmitter/receiver device 2 is connected by a data cable 4 to a computer 5 and to a storage device 6, which contains personal information on the deceased person. The computer 5 and the storage device 6 may be located directly in the cemetery or, as is shown in the FIGURE, in a central storage chamber 7, which also includes further computers 5' and storage devices 6'. These are connected to a common energy source 8. An authorized visitor to the grave can bring the communications apparatus 3 into the vicinity of the transmitter/receiver device 2 in such a way that "wireless" communication between these is possible (as recited in claims 5-7, 12, 27, and 45-47 of the instant application). The communications apparatus 3 can carry out a dialogue with the computer 5 and call up information in its own memory 11. This procedure may be effected unobtrusively, so that the dignity of the location is not disturbed. The information stored in the communications apparatus 3 may be later reproduced audibly by persons or, as it exists in digital form, may be directly processed (see Figure 1, col 1 line 30 to col 2 line 32).

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Hence, regarding claims 1, 26, and 37-41 Assisi teaches a system (i.e. device and method) wherein a communications means associated with attending an event of going to a cemetery (article associated with an attendee of an event) receives information about a specific person from a transmitter/receiver (an identifier broadcasted by a recording device, the recording device being the transmitter/receiver and computer which stores audio and textual recorded information) and storing the information called up from the computer into the communications device (storing the identifier in a memory communicatively coupled to the article). In addition, the communications apparatus (article) can carry out a dialogue with the computer 5 (via transmitter/receiver) and call up information in its own memory 11, hence emitting a responsive signal to acknowledge receiving the information as broadcasted by the recording device as recited in claims 2 and 42 and also receiving a responsive identifier from an entity interested in the recording and associating the responsive signal with the recording as recited in claim 11. Regarding claims 8-10, 13, 28, and 48-50, Assisi teaches a control storage chamber for distributing information to a user (the distributor which distributes the recording according to distribution terms).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 3-4, 22-25, and 43-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Assisi in view of DeVito (U.S. Patent No. 5,960,572). The teachings of Assisi have been discussed above.

Regarding claims 3-4, 22, and 43-44, Assisi fails to teach that the article is a badge or ticket given to the attendee.

DeVito teaches a toll pass holder. DeVito discloses that the toll pass holder 10 comprises a housing 12 having an open top compartment 14 with a large open front window 16, so as to receive an electronic toll pass 18 inserted therein. A structure 20 is for temporarily retaining the housing 12 to an interior surface 22 of a windshield 24 in a motor vehicle 26. The large open front window 16 in the housing 12 faces the interior surface 22 of windshield 24, so that the electronic toll pass 18 can operate therefrom. The temporarily retaining structure 20 includes a pair of suction cups 28. Each suction cup 28 extends outwardly from a front surface 29 and adjacent a corner at a bottom end of the housing 12 below the large open front window 16 (see Figure 1, col 4, lines 35-48). The toll pass holder which holds the toll pass functions as both a badge (i.e. taped to the windshield for easy access/use) and a ticket (the actual toll pass itself).

In view of the teaching of DeVito, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the communications means (article) as a badge worn by the user so that the article is easy to keep track of and efficient so it does not have to be held. In addition, it is also favorable to use a ticket because like a smart card, a ticket is small and able to be placed in ones pocket or hand



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for safe keeping. It is appropriate to combine DeVito and Assisi because they are both systems that allow users to obtain information remotely.

Regarding claims 23-25, Assisi teaches the use of a vantage point for coupling the badge and the distributor and a storage for storing and associating a cross-reference for the identification, responsive signals, and recording (see col 1-2).

8. Claims 14-15, 20-21, 29-30, and 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Assisi in view of Hicks (U.S. Patent No. 5,512,396). The teachings of Assisi have been discussed above.

Assisi fails to teach that a request to purchase the recording is made, and that the information is provided to a broker anonymously.

Hicks teaches a method of producing photographic prints. Hicks discloses a methodology for handling photographic film in which a video image of each frame of film is acquired on a diskette as the frames are originally being processed in the photographic laboratory, the diskette is transmitted to the photographer's studio, along with the proof prints, for viewing by the photographer/subject, the photographer/subject makes further desired corrections or adjustments of each frame by viewing the video image of each frame on a computer monitor, the further corrections or adjustments are recorded on the diskette for each frame, and the revised diskette is returned to the photographic laboratory where it is used in conjunction with the film to produce final photographic prints. The final photographic prints thus graphically and objectively reflect the precise desires of the photographer/subject (see abstract and col 1-6).

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In view of the teaching of Hicks, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a method to purchase a recording since it is favorable to be able to have a complete copy of a recording, rather than an incomplete set. In addition, the article may not be able to store all the information that is necessary. In addition, it is obvious to do business anonymously because it is favorable to be able to purchase things from a source privately so that an identity is protected (i.e. if the purchaser does not want to be solicited by telemarketers etc.). It is appropriate to combine Hicks and Assisi because they are both providing a product to users who like to obtain information.

### **Conclusion**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Lisa M. Caputo** whose telephone number is **(703) 308-8505**. The examiner can normally be reached between the hours of 8:30AM to 5:00PM Monday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 703-305-3503. The fax phone number for this Group is (703)308-7722, (703)308-7724, or (703)308-7382.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [[lisa.caputo@uspto.gov](mailto:lisa.caputo@uspto.gov)].

*All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.*

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



LMC

June 20, 2003



**THIEN M. LE  
PRIMARY EXAMINER**